

Gaming Commission Regulations
Regulation # R400-04:GC-01

Chapter 1. General Provisions

Section 1. Purpose; Authority

1-1. *Purpose.* It is the purpose of this Chapter to provide general guidance on the operating activities of the offices of the Gaming Commission.

1-2. *Authority.* These rules and regulations are issued under and pursuant to the authority of the Gaming Ordinance, # 02-400-01, Gaming Commission Ordinance, #04-400-04, and Commission's Ordinance, # 04-150-01.

Section 2. Definitions

2-1. *General.* For purposes of this regulation, certain terms are defined in this section. The word "shall" is always mandatory and not merely advisory. Unless defined elsewhere, terms defined in this Chapter and the Gaming Ordinance and Gaming Commission Ordinance are defined for the purposes of all Gaming Commission Regulations.

2-2. *Applicant records:* means those records which contain information and data pertaining to an applicant's criminal record, antecedents and background, and the applicant's financial records, furnished to or obtained by the Gaming Commission from any source incident to an investigation for licensure, finding of suitability, registration, or other affirmative approval.

2-3. *Authorized Personnel:* Any member, employee, or agent of the Gaming Commission.

2-4. *Certification fees:* means the fees charged by Gaming Commission personnel incident to the certification of documents.

2-5. *Commission Work Product:* means any paper, document, or other record prepared within the Gaming Commission, in performance of statutory or regulatory authority, which contains opinions or recommendations submitted for consideration in the performance of decisional or policy making functions or information supplied by any governmental agency or an informer or on the assurance that the information will be held in confidence. "Commission work product" includes, but is not limited to, the following documents, prepared by members, agents, attorneys, and employees of the Gaming Commission:

- a. Investigative summaries concerning applicants for licensure, finding of suitability, registration, or other affirmative Gaming Commission approval;
- b. Investigatory files compiled for law enforcement purposes;
- c. Investigative reports;
- d. Work papers and notes of members, agents, attorneys, and employees of the Gaming Commission;
- e. Audit reports, including work papers, whether for special or regular audits; and
- f. Orders to show cause and related documents.

2-6. *Confidential record:* means any paper, document or other record or data reduced to a record which is not open to public inspection.

2-7. *Director:* means the Director of Gaming Regulatory and Compliance or any successor position responsible for supervision of the day-to-day operations of the Gaming Commission staff.

2-8. *Duplication fees*: mean a charge for duplicating documents for release to the requesting person.

2-9. *Financial records*: mean those records which relate to the finances, earning, or revenue of an applicant, licensee, registered company, or person to whom any approval has been granted.

2-10. *Investigation*: means any investigation conducted by the Gaming Commission or its staff pursuant to the Gaming Ordinance, the Gaming Commission Ordinance, and the regulations promulgated thereunder, including, but not limited to, an investigation pursuant to an application for a gaming license, continuation of a gaming license, finding of suitability, registration, approval, other license, or periodic compliance investigation.

2-11. *Law enforcement agency*: means any governmental agency involved in the investigation of criminal activity or the arrest, detention, or prosecution of persons suspected of engaging in criminal activity.

2-12. *Public record*: means any paper, document, or other record required to be kept or necessary to be kept, in the discharge of a duty imposed law, not declared confidential by statute or regulation. Public records are open to public inspection and include, but are not limited to, the following:

- a. Minutes of Gaming Commission regular and special public meetings, and all public hearings conducted by the Gaming Commission, or its agents, including exhibits entered in the public record as public documents at those meetings or hearing;
- b. A list of all applications made under applicable employee or vendor licensing regulations and the record of all formal actions taken with respect to such applications by the Gaming Commission;
- c. Agendas of Gaming Commission meetings;
- d. With the exception of documents filed under seal pursuant to section 5.2, legal documents filed with the Gaming Commission concerning contested cases brought by or against the Gaming Commission or the Director, including, without limitation, disciplinary actions, proceedings concerning the possible inclusion of persons on the list of excluded persons, petitions for redetermination, and requests for refund, except that the summary of evidence filed with a disciplinary complaint and the evidence to which it refers is confidential until such documents are entered in the public record as public documents at a Gaming Commission hearing on the complaint;
- e. Gaming Commission files on the enactment, amendment, or repeal of regulations;
- f. All ordinances enforced by the Gaming Commission and the regulations promulgated there under;
- g. Licenses;
- h. Reports and correspondence of the Gaming Commission specifically prepared for public distribution.

2-13. *Assuring Integrity of Records*:

a. *Records Maintained in Manual Form*. When maintained in manual form, gaming license files shall be maintained, at a minimum, subject to the following safeguards, or safeguards affording comparable protection:

1. Areas in which the records are maintained or regularly used shall be posted with an appropriate warning stating that access to the records is limited to authorized persons.
2. During working hours,

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- A. the area in which the records are maintained or regularly used shall be occupied by authorized personnel or
 - B. access to the records shall be restricted by their storage in locked metal file cabinets or a locked room.
- 3. During non-working hours, access to the records shall be restricted by their storage in locked metal file cabinets or a locked room.
- 2-14. All Gaming Commission deadlines and terms are counted on calendar days, unless otherwise specifically stated. All deadlines and terms are considered expired as of midnight the day they expire.

Section 3. Construction and Application of the Rules

3-1. Construction and Amendments.

- a. These rules shall be liberally construed to permit the Gaming Commission to effectively carry out its statutory functions and secure a just and expeditious determination of issues properly presented to the Gaming Commission.
- b. These rules may be amended by the Gaming Commission from time to time in accordance with the provisions of the Gaming Ordinance, Gaming Commission Ordinance, and any regulation promulgated by the Gaming Commission.

3-2. Severability and Preemption.

- a. If any clause, sentence, subparagraph, paragraph, subsection, section, chapter or other portion of these rules or the application thereof to any person or circumstance shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of these rules or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, subsection, section, chapter or other portion thereof directly involved in such holding or to the person or circumstances therein involved.
- b. The Gaming Commission shall have jurisdiction over all matters delegated to it or within the scope of its powers under the provisions of the Gaming Ordinance and these rules.

Section 4. Information and Filings

4-1. Office; Hours.

- a. The main office of the Gaming Commission is located at:
2840 Orchard Highway – Suite A
Manistee, MI 49660
- b. The mailing address for the Gaming Commission is:
Little River Band of Ottawa Indians Gaming Commission
PO Box 337
Manistee, MI 49660
- c. The office of the Gaming Commission is open for the filing of papers and for other business from 7:00 a.m. – 4:00 p.m., Monday through Friday. The office of the Gaming Commission is closed on legal holidays in accordance to the Tribal Personnel Manual.

4-2. Communications; Notices.

- a. All papers, process or correspondence relating to the Gaming Commission shall be addressed to, or served upon the Gaming Commission at the Gaming Commission's main office or sent through the mail service.
- b. All such papers, process or correspondence shall be deemed to have been received or served when delivered to the main office of the Gaming Commission. If after hours, papers, processes, or correspondences delivered to the mailbox available in front of the Gaming Commission's office, shall be deemed to have been received or served when deposited in such mailbox.
- c. Use of electronic correspondence although not sanctioned as a valid means to serve, process, or correspond shall serve as a presumption of knowledge of the content of the information sent electronically. Routine and day-to-day communications may be forwarded electronically to recipients whose e-mail addresses are registered with the Gaming Commission.

Section 5. Confidentiality

5-1. All information about applicants and/or licensees is confidential. Confidential records may only be released as prescribed in this regulation. Confidential records include, but are not limited to:

- a. Commission work product;
- b. Applicant records (entire file);
- c. Financial records of any applicant and/or licensee, including trade secrets, tax returns, internal controls or reports of financial or internal controls audits;
- d. Transcripts of investigative and other closed hearings including, but not limited to, licensing and personnel hearing;
- e. Licensee records, lists of license holders, and records of persons engaged in the gaming industry acquired or compiled by the Gaming Commission;
- f. All information, records, interviews, reports, data or documents supplied to or used by the Gaming Commission that has been received from another jurisdiction under a promise of confidentiality or if the release of the information is otherwise barred by the statutes, rules or regulations of that jurisdiction or by an intergovernmental agreement;
- g. Records or data provided to members, agents, and employees of the Gaming Commission on the assurance that such information will be held in confidence and treated as confidential information;
- h. Records or data provided to members, agents, or employees of the Gaming Commission with a request for confidentiality, which request has been granted by the Director or the Gaming Commission Chairperson;
- i. Any records required to be submitted to the Gaming Commission which contain information that is privileged, unless the holder of the privilege has waived the privilege;
- j. Licensees' responses to regulatory notices or inquiries, including orders to show cause;
- k. Documents that are confidential under any Tribal ordinance, these regulations, or other law, proffered or introduced as evidence in contested matters, provided such documents are received in evidence as confidential exhibits;
- l. Those documents or portions of documents filed in contested matters under seal pursuant to Section 5-2 of this regulation;

- m. Internal control systems or information relating to security or surveillance systems submitted by applicants or licensees;
- n. Correspondence containing information deemed confidential by applicable law or regulation; and
- o. Any records which contain any information relating to confidential investigations or confidential informants of the Gaming Commission.

5-2. *Sealing Of Documents.* The Gaming Commission Chairperson or the hearing examiner may allow any person interested in a contested case brought before the Gaming Commission by or against the Director to file a document or portions of a document with the Gaming Commission under seal if:

- a. The document or portions of the document contain information that is confidential pursuant to the Act or these regulations;
- b. The person makes a request in writing or on the record of a public hearing to allow the filing of the document under seal, setting forth the reasons that such filing under seal should be permitted;
- c. The person requesting the filing of the document or portions of the document under seal has, to the extent practicable, segregated the portions of the document containing confidential information from the remainder of the document so that no more of the document than is necessary is filed under seal; and
- d. The Gaming Commission Chairperson or the hearing examiner finds that the public interest in maintaining the confidentiality of the information outweighs the public interest in making the information public.

5-3. *Documents That May Not be Filed Under Seal.* The Gaming Commission Chairperson or the hearing examiner may not allow the filing of the following documents under seal:

- a. Complaints initiating enforcement actions;
- b. Answers to complaints for enforcement action;
- c. Any Gaming Commission order.

5-4. *Access To Public Records.* A request for access to public records must be made to the Gaming Commission office. Requests for public records must be made in writing and public records may be made available for public inspection during business hours. Fees for any duplication or certification shall be paid prior to release of copies of the records. As soon as practicable after payment of the required fees, the copies of the requested public records shall be released. The Director may waive payment of the required fees for requests made by, or on behalf of, governmental agencies.

5-5. *Access To Confidential Records and Persons Authorized to Review Records.*

Unless disclosure to a particular person or persons is authorized pursuant to subsection (c) of this section, records contained in individual license application files may only be handled and reviewed by the following persons:

- 1. the Gaming Commissioners;
 - 2. Gaming Commission employees and staff; and
 - 3. Outside agencies used by the Gaming Commission to conduct or verify background investigations.
- b. Except as otherwise provided in this section, the Gaming Commission may only release confidential records if ordered to do so by a court of competent jurisdiction.

c. All requests for access to confidential records must be made in writing to the Director. The Gaming Commission shall maintain a record of all circumstances in which confidential information is released which record shall include: identification of the information released, the person to whom the information was released and the purpose for which the confidential information was released.

d. Confidential information in the possession of the Gaming Commission may only be released or disclosed to any person in the following circumstances:

1. In the course of the necessary administration of the Gaming Ordinance and the Gaming Commission Ordinance;
2. To the applicant and/or licensee who furnished the confidential information to the Gaming Commission but only upon presentation of proper photographic identification or, in the case of a vendor, proof that the person is authorized to request such information on behalf of the licensee;
3. To any person making a written request which specifically identifies the confidential information relating to a licensee but only upon presentation of a duly executed and notarized authorization for release which identifies the information to be released;
4. Pursuant to a written request from a duly authorized agent of any agency of the United States or the Tribe in accordance with any applicable agreements with such other governmental agencies for the exchange or release of confidential information;
5. To appropriate federal, Tribal, state, local or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions;
6. In the course of administering Gaming Commission regulations governing licensing of gaming enterprise employees and vendors;
7. In the course of administration of workers' compensation, unemployment or other benefits claimed by current or former employees of a regulated gaming enterprise or the Gaming Commission; and
8. Copies of surveillance logs and video and/or audio tapes may be released to authorized representatives of a licensed gaming enterprise for the following purposes:

- A. To assist the gaming enterprise respond to a patron complaint;
- B. To investigate or adjust an insurance claim in which a patron or vendor claims injury or damage to his person or property;
- C. To investigate or adjust unemployment, workers' compensation or other claims by employees of a licensed gaming enterprise;
- D. To identify or track employee breaks in gaming procedures, internal controls or other regulatory requirements for training and/or disciplinary purposes.

f. If confidential information is released or otherwise disclosed to any person under any circumstances other than those identified above, written notice of such release of disclosure shall be given to any applicant or licensee affected, unless notice would otherwise imperil the integrity of the gaming operations or the purposes of the Gaming Ordinance. To the extent known, the notice shall include:

1. The name and address of the person to whom the information was released or disclosed;
2. A description of the information released or disclosed; and
3. The date of the release or disclosure.

Whenever possible, any such notice of confidential information to be released or disclosed shall be given prior to the release or disclosure.

5-6. *Temporary Custody by Authorized Personnel.* Confidential information which is not presently being utilized shall be preserved at all times. It shall be the personal responsibility of the individual with temporary custody of the confidential information to ensure that the information is not shown, released, or disclosed to any unauthorized person or to any otherwise authorized person who does not require such information in the performance of their official duties.

5-7. *Confidential Information; Determination of Confidential Status.* Any questions concerning whether or not a specific item of information or data within the possession of the Gaming Commission is deemed to be confidential information, or any other applicable statutory provision, judicial decision or rule of court, shall be submitted to the Gaming Commission or its designee for determination or referral to appropriate authorities.

Section 6. Disclosure of Records

6-1 a. *Disclosure Prohibited.* No records contained in a license application file may be disclosed by any means of communication to any person, or another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains.

b. *Specific Exceptions.* The prohibition contained in paragraph (a) does not apply where the record would be:

1. Requested by the National Indian Gaming Commission or such other organization for verification/investigation of background information;
2. Requested by an outside agency contracted with the Gaming Commission to conduct background investigations;
3. Pursuant to the order of the Tribal Court.

Section 7. Access to Records

7-1. *Retention in Secure Storage Facilities; Access*

a. Access to confidential information within the possession of the Gaming Commission shall be restricted to authorized personnel who require such information in the performance of their official duties.

b. Confidential information which is not presently being utilized by authorized personnel shall be stored in secure storage facilities. No one except authorized personnel may gain access to designated secure storage facilities except in accordance with the provisions of this Chapter.

c. All Gaming Commission offices in which secure storage facilities are located shall be protected from unauthorized intrusions at all times.

d. Every secure storage facility shall be placed under the direct supervision and control of an appropriate supervisor who shall periodically review for their effectiveness all security procedures and precautions pertaining to the confidential information stored

therein. Security procedures and precautions that are determined to be ineffective shall be immediately corrected.

e. Confidential information may be stored in secure facilities on micrographics, hard copy (paper), magnetic media or any other suitable medium, provided adequate security measures are maintained to prevent unauthorized access to or use of such information.

f. Access to confidential information stored on computer or magnetic media shall be restricted to authorized personnel who have obtained the required operating key, code manual or access code from the appropriate supervisor. Operating keys, code manuals and access codes shall be limited in number and shall be controlled by the appropriate supervisor.

7-2. Retention Schedule and Storage Destruction.

a. The Gaming Commission shall establish and maintain a record retention schedule for all confidential information within their possession.

b. Any confidential information in the possession of the Gaming Commission shall be promptly destroyed in accordance with the provisions of the applicable retention records schedule required by (a) above.

7-3. Unauthorized Procurement Of Records Prohibited.

a. An applicant, licensee, registered company, or other person shall not, directly or indirectly, procure or attempt to procure from the Gaming Commission information or records that are not made available by proper authority. Any violation of this regulation constitutes reasonable cause for disciplinary action, license revocation or to deny any license application.

7-5. Penalties.

a. Any direct or indirect willful disclosure of confidential information by authorized personnel of the Gaming Commission except as provided herein, shall be a violation of the Gaming Commission regulations, Tribal law or applicable federal law.

b. The unauthorized release or disclosure of confidential information shall also be a violation.

c. Any violation of the provisions of this chapter by authorized personnel will result in appropriate disciplinary action being taken by the Gaming Commission up to and including termination.